

Message Text

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E.O. 11652: 11652: GDS
TAGS: ECON FR US
SUBJ: STATUS OF AMERICAN LAW FIRMS IN FRANCE

REF: STATE 172487

1. THERE HAS BEEN NO BASIC CHANGE IN THE STATUS OF
AMERICAN LAW FIRMS IN FRANCE SUBSEQUENT TO THE EMBASSY'S
AID MEMOIRE OF JUNE 23, 1976.

2. REPRESENTATIVES OF AMERICAN LAW FIRMS HAVE BEEN
UNSUCCESSFUL IN TRYING TO PERSUADE THE MINISTRY OF
JUSTICE TO RE-INSTITUTE THE MORATORIUM ON THE REQUIRE-
MENT FOR AN 18 MONTHS APPRENTICESHIP PRIOR TO BEING
LICENSED (INSCRIBED) AS A LEGAL CONSULTANT (CONSEIL
JURIDIQUE). MEANWHILE SOME OF THE ONE-MAN FIRMS HAVE
HAD DIFFICULTIES WITH ROTATION. IN THE FEW CASES WHERE
IT HAS OCCURRED, THEY HAVE RESORTED TO SOME STRATEGEM,
SUCH AS LEAVING THE DEPARTING PARTNER'S NAME ON THE
GOVERNMENT'S LIST OF LEGAL CONSULTANTS AND HAVING HIM
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MAINTAIN A FICTIONAL RESIDENCE IN FRANCE, PAY FRENCH
TAXES AND MAKE FREQUENT VISITS TO FRANCE. THIS KIND OF
ARRANGEMENT CANNOT LAST FOREVER AND IT IS NOT CERTAIN
THE FRENCH WILL WINK AT IT IF THEY FIND OUT ABOUT IT OR
WILL CONTINUE TO DO SO FOR VERY LONG IF THEY ALREADY
KNOW ABOUT IT.

3. AMERICAN LAWYERS HAVE SEEN SOME INDICATIONS THAT THE MINISTRY OF JUSTICE MIGHT BE WILLING TO RE-INSTITUTE AND EXTEND THE MORATORIUM ON THE 18 MONTHS REQUIREMENT IF THE VARIOUS FRENCH BAR ASSOCIATIONS DID NOT OBJECT. THE MAJORITY OF ASSOCIATIONS QUERIED SEEMED FAVORABLE, THE NOTABLE EXCEPTION BEING THE PARIS BAR, WHICH HAS BEEN TRADITIONALLY HOSTILE TO THE PRESENCE OF AMERICAN LAWYERS IN FRANCE. THE ARGUMENT AGAINST EXTENSION IS THAT THESE PARTNERS AND THEIR FIRMS ARE EMPOWERED TO PRACTICE FRENCH LAW AND HENCE THEY SHOULD BE SUBJECT TO THE SAME REQUIREMENTS AS THEIR FRENCH COUNTERPARTS. THE NEW PRESIDENT-DESIGNATE OF THE PARIS BAR, WHO IS DUE TO TAKE OFFICE LATE THIS YEAR, IS SAID TO BE MORE UNDERSTANDING OF THE AMERICAN POSITION THAN THE PRESENT INCUMBENT, AND THIS MAY HELP.

4. THE OTHER PROBLEM FACING AMERICAN LAWYERS IN FRANCE INVOLVES THEIR RIGHT TO PRACTICE AND ADVISE ON FRENCH LAW. THE MINISTRY OF JUSTICE HAS BEEN UNWILLING TO MAKE A FORMAL DETERMINATION THAT RECIPROCITY EXISTS, ON THE PRINCIPLE GROUNDS THAT THERE IS NO EXACT EQUIVALENCE. THE MINISTRY IS ALSO UNDOUBTEDLY INFLUENCED BY THE FACT THAT A FINDING THAT RECIPROCITY EXISTS WOULD MEAN THAT AMERICAN LAWYERS AND LAW FIRMS WOULD CEASE TO BE SUBJECT TO ANY FORM OF REGULATION OR DISCIPLINARY AUTHORITY, OR LIMITATION IN THE ESTABLISHMENT OF NEW OFFICES. (THEY
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WOULD ALSO, OF COURSE, NO LONGER BE SUBJECT TO THE 18 MONTH APPRENTICESHIP REQUIREMENT.)

5. IN THE ABSENCE OF A FORMAL FINDING OF RECIPROCITY THE FRENCH GOVERNMENT HAS HAD THE OPTION, SINCE JANUARY ONE OF THIS YEAR, TO ISSUE A DECREE LIMITING AMERICAN FIRMS TO THE PRACTICE OF FOREIGN AND INTERNATIONAL LAW. THIS WOULD WORK A SEVERE HARDSHIP ON CERTAIN FIRMS DOING A LOT OF BUSINESS INVOLVING FRENCH LAW.

6. IF THE FRENCH ARE IN FACT CONSIDERING SOME NEW ACTION AGAINST AMERICAN LAWYERS IN FRANCE AS A WAY TO BRING PRESSURE FOR CONCORDE ENTRY AT NEW YORK, A LIKELY MOVE MIGHT BE TO EXERCISE THE OPTION MENTIONED IN THE FOREGOING PARAGRAPH.

7. THE AMBASSADOR PLANS TO CALL ON THE MINISTER OF JUSTICE, ALAIN PEYREFITTE, IN AUGUST. IF THE MOMENT SEEMS PROPITIOUS HE PLANS TO RAISE THE QUESTION OF THE STATUS OF AMERICAN LAWYERS WITH THE MINISTER.
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